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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE  
COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

CHAPTER 11

**FIFTEENTH OMNIBUS  
OBJECTION OF USACM  
LIQUIDATING TRUST TO  
DUPLICATE PROOFS OF CLAIM;  
AND CERTIFICATE OF SERVICE**

Date of Hearing: November 15, 2011  
Time of Hearing: 9:30 a.m.  
Estimated time for Hearing: 15 Minutes

The USACM Liquidating Trust (the “USACM Trust”) recently learned there are five more duplicate proofs of claim that have not been processed yet (“Duplicate Claims”). These Duplicate Claims are identical to proofs of claim that were previously filed by the same creditor. The USACM Trust has already processed the original proofs of claim by making objections and/or motions to allow (“Processed Claims”). Pursuant to § 502 of title 11 of the United States Bankruptcy Code (the “Bankruptcy Code”) and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the USACM Trust objects to the Duplicate Claims listed on **Exhibit A** and asks that the Court disallow them in full. The disposition of the Processed Claims will not be affected by the Court’s ruling on this Objection. This Objection is supported by the Court’s record and the Declaration

1 of Edward M. Burr in Support of the Fifteenth Omnibus Objection to Duplicate Proofs of  
2 Claim (the “Burr Decl.”) filed herewith.

3 **I. JURISDICTION**

4 The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 1334 and  
5 157. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409. This matter is a core  
6 proceeding under 28 U.S.C. § 502 and Bankruptcy Rule 3007. The statutory predicate  
7 for the relief requested herein are 11 U.S.C. § 502 and Bankruptcy Rule 3007.

8 **II. BACKGROUND**

9 On April 13, 2006 (“Petition Date”), USACM, USA Securities, LLC (“USA  
10 Securities”), USA Capital Realty Advisors, LLC (“USA Realty”), USA Capital  
11 Diversified Trust Deed Fund, LLC (“DTDF”), and USA Capital First Trust Deed Fund,  
12 LLC (“FTDF,” together with DTDF, the “Funds”) (collectively, the “Debtors”), filed  
13 voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Debtors continued  
14 to operate their businesses, if any, as debtors-in-possession pursuant to sections 1107(a)  
15 and 1108 of the Bankruptcy Code. Debtors’ post-petition management of the Debtors was  
16 under the direction of Thomas J. Allison of Mesirow Financial Interim Management, LLC  
17 (“Mesirow”), who served as the Chief Restructuring Officer.

18 On January 8, 2007, this Court entered its Order Confirming the “Debtors’ Third  
19 Amended Joint Chapter 11 Plan of Reorganization” as Modified Herein [Docket No.  
20 2376] (the “Confirmation Order”). Under the Plan, the USACM Trust is the successor to  
21 USACM with respect to standing to seek allowance and disallowance of Claims. The  
22 USACM Trust exists as of the Effective Date of the Plan, which was March 12, 2007.  
23 Geoffrey L. Berman is the Trustee.

### III. APPLICABLE AUTHORITY

Under the Bankruptcy Code, any Claim for which a proof of claim has been filed will be allowed unless a party in interest objects. If a party in interest objects to the proof of claim, the Court, after notice and hearing, shall determine the amount of the Claim and shall allow the Claim except to the extent that the Claim is “unenforceable against the debtor . . . under any . . . applicable law for a reason other than because such claim is contingent or unmatured.” 11 U.S.C. § 502(b). A properly filed proof of claim is presumed valid under Bankruptcy Rule 3001(f). However, once an objection to the proof of claim controverts the presumption, the creditor ultimately bears the burden of persuasion as to the validity and amount of the claim. *See Ashford v. Consolidated Pioneer Mortg. (In re Consolidated Pioneer Mortg.)*, 178 B.R. 222, 226 (B.A.P. 9th Cir. 1995), *aff’d*, 91 F.3d 151 (9th Cir. 1996). The ultimate burden of proof as to the validity of a proof of claim “remains at all times upon the claimant.” *Lundell v. Anchor Constr. Specialists, Inc. (In re Lundell)*, 223 F.3d 1035, 1039 (9th Cir. 2000).

### IV. OBJECTION TO CLAIMS LISTED IN EXHIBIT A

**Exhibit A**, attached, lists Proofs of Claim that are duplicates of other proofs of claim filed by the same creditors previously. **Exhibit A** identifies the claimant, the claimant’s address, the claim number of the Duplicate Claim, the amount of the Duplicate Claim, and the claim number of the valid claim that the USACM Trust has already processed (“Processed Claims”). The Duplicate Claims are identical to the Processed Claims. Accordingly, the USACM Trust objects to the Duplicate Claims and asks that the Court disallow them in full. The Court’s ruling on this Objection will not affect the Processed Claims. As required by Nevada LR 3007, a copies of the first page of the proof of claim for each of the Duplicate Claims referenced in **Exhibit A** are attached as **Exhibit B**.

### V. CONCLUSION



1 The USACM Trust respectfully requests that the Court disallow in full the  
2 Duplicate Claims listed in **Exhibit A**. The USACM Trust also requests such other and  
3 further relief as is just and proper.

4 Dated: October 7, 2011

5 LEWIS AND ROCA LLP

6  
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15 *Attorneys for the USACM Liquidating Trust*

16 Copy of the foregoing and the pertinent  
17 Portion of Exhibit A mailed by first class  
18 Postage prepaid U.S. mailed on  
19 October 7, 2011 to:

20 All parties in interest listed on  
21 Exhibit A attached

22 LEWIS AND ROCA LLP

23 /s/ Matt Burns  
24 Matt Burns, Paralegal  
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